

IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Case No. 3:21-mj-00217-1

v.

KEVIN ROBERT McCARTY

ORDER OF DETENTION AFTER HEARING (18
 USC § 3142(i))

- ☒ On motion of the Government involving an alleged:
- ☒ risk to the safety of any other person or the community for cases involving crimes described in 18 USC § 3142(f)(1)
 - ☒ serious risk defendant will flee;
 - ☐ serious risk defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate a prospective witness or juror or attempt to do so,
- ☐ Upon consideration by the court *sua sponte* involving a:
- ☐ serious risk defendant will flee;
 - ☐ serious risk defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate a prospective witness or juror or attempt to do so,

Having considered the nature and circumstances of the offense charged, the weight of evidence against the defendant, the history and characteristics of the defendant, and the nature and seriousness of the danger to any person and to the community that would be posed by the defendant's release, the court finds that:

☒ The offense charged creates a rebuttable presumption in 18 USC § 3142(e) that no combination of conditions will reasonably assure the safety of the community.

- ☒ No condition or combination of conditions will reasonably assure the appearance of defendant as required due to:
- ☐ Foreign citizenship and/or illegal alien
 - ☐ ICE Detainer
 - ☐ Deportation(s)
 - ☐ Multiple or false identifiers
 - ☐ Aliases
 - ☒ Prior criminal history, ☐ including drug/drug related offense, ☐ including alcohol/alcohol related offense
 - ☐ Prior supervision failure(s), ☐ Including illicit drug use, ☐ including alcohol abuse
 - ☐ Other: _____
 - ☐ In custody/serving sentence
 - ☐ Outstanding warrant(s)
 - ☐ Prior failure(s) to appear
 - ☐ Mental health issues
 - ☒ Substance use/abuse
 - ☐ Unknown family/employment/community ties
 - ☐ Unstable/no residence available
 - ☐ Information unverified/unverifiable

- ☒ No condition or combination of conditions will reasonably assure the safety of other persons and the community due to:
- ☒ Nature of offense
 - ☐ Arrest behavior
 - ☐ Possession of weapon(s)
 - ☐ Violent behavior
 - ☒ Prior criminal history, ☐ including drug/drug related offense,
 - ☐ Prior supervision failure(s), ☐ Including illicit drug use, ☐ including alcohol abuse
 - ☐ Other: _____
 - ☒ Substance use/abuse
 - ☐ Mental health issues
 - ☒ Alleged offense involves child pornography on the internet
 - ☐ including alcohol/alcohol related offense

☐ Other (writ/serving federal or state sentence): _____

☒ Defendant has not rebutted by sufficient evidence to the contrary the presumption provided in 18 USC § 3142(e).

☒ Defendant did not seek release, and therefore may request a detention review hearing without making the required showing to reopen a detention hearing under 18 U.S.C. § 3142(f).

THEREFORE, IT IS ORDERED that:

1. Defendant is detained prior to trial;
2. Defendant is committed to the custody of the Attorney General for confinement in a corrections facility separated, as far as practicable, from persons awaiting or serving sentences or being held in custody pending appeal;
3. Defendant shall be afforded a reasonable opportunity for private consultation with his counsel;
4. The superintendent of the corrections facility in which defendant is confined shall make the defendant available to the United States Marshal for the purpose of appearance in connection with any court proceeding.

DATED: December 10, 2021

/s/ Andrew D. Hallman
 United States Magistrate Judge